IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.591 OF 2003

The Director of Income-tax (E) .. Appellant.
V/s.
Seth Hansraj Pragji Thachersey
Education Fund, Mumbai .. Respondent.

Ms.S.V. Bharucha i/b. S.S. Sarkar for the appellant.

CORAM : R.M. LODHA, &
J.P. DEVADHAR, JJ.
DATED : 24TH NOVEMBER, 2004.

P.C. :

Heard Ms.S.V. Bharucha, the learned counsel for the revenue.

2. The Tribunal relied upon its earlier order in the case of the assessee for the Assessment Year 1991-1992 in holding that there was no justification to deny the assessee the exemption under Section 10(22). Though in the memo of appeal in ground (c) it is stated that the order of the Tribunal passed in the case of assessee for the Assessment Year 1991-1992 has been challenged before this Court vide Income Tax Appeal No.925 of 1995, the learned counsel for the revenue conceded before us that she has not been able to trace any appeal like Income Tax Appeal No.925 of 1995 wherein the order of the Tribunal for the Assessment Year 1991-1992 is said to have been challenged. The learned counsel for the revenue could not show us the appeal wherein the order of the

Tribunal in the case of the assessee for Assessment Year 1991-1992 has been challenged.

3. The Tribunal in the case of the assessee for the Assessment Year 1991-1992 inter alia observed thus :

> ". In this case, as observed earlier, assessee has been running three educational institutions. The Sunderbai Hall which has earned the rental income for the assessee was a part of the educational institution. The hall has also been used by the pupils of the institution as a prayer hall and as a meeting hall. The same is let out only when it was otherwise not engaged. The surplus from the letting out was used not for any personal or private gain, but for the purpose of the institution - viz. Running and maintenance of schools. In such circumstances, it would not be proper to deny the assessee the exemption u/s.10(22) and we, therefore, direct the AO to allow the same."

4. The aforesaid observations made by the Tribunal for the Assessment Year 1991-1992 having been accepted for the subsequent Assessment Years 1992-1993 and 1993-1994, we do not find any justification for interference therein.

5. The appeal is dismissed in limine.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)